Testimony by Louis Tijerina, Ford Motor Company,
before the Michigan House Transportation Committee regarding
Cell Phone and Text Messaging Bills – HB 4369 and 4394
April 23, 2009

An ever-increasing number of drivers are using cellular telephone and music players while driving and Ford expects this trend to continue.

- According to Cellular Telecommunications Industry of America (CTIA) statistics, wireless subscriptions in the U.S. grew 960% from 28.1 million subscriptions in 1995 to over 270.6 million as of early January 2009.
  - During this same period of time, data from the National Highway Traffic Safety Administration (NHTSA) indicates that both fatal crash rates and police-reported crash rates, per billions of vehicle-miles-travel, have fallen year over year
- Driving and cell phone use is commonplace.
  - Nationwide Insurance Company's "Life-On-The-Go" Survey (2007) found 73% of respondents report talking on cell phone while driving.
  - The recently released AAA Foundation for Safety survey "Cell Phones and Driving: Research Update" (2008) reported 53% to 61% of their respondents reported talking on a cell phone within the past month.
  - The percentage of drivers who are on a cell phone is increasing: 10% of drivers on cell phones at any given moment (Glassbrenner, 2005)
  - According to a survey of 5,288 licensed drivers conducted by GMAC Insurance in 2006, 20% of drivers between 18-24 used/select songs on an iPod or MP3 device, while driving
  - Clearly, the public has embraced these technologies and use them while driving

Recently completed naturalistic driving studies indicate that visual distraction is the primary concern in driving. Cognitive distraction is less of a concern than previously thought based on short-duration simulator and closed-course studies.

- The NHTSA-sponsored "100-Car Study" was completed by Virginia Tech in 2006. This study involved 109 primary drivers and 132 occasional drivers whose vehicles were heavily instrumented to capture driver eye glance behavior, vehicle steering and braking inputs, road scene video, lane position and car following range, and other variables. Participants were recorded driving where they wished, as they wished, for approximately 1 year, yielding 42,300 hrs of driving, over 2 million vehicle miles traveled, 82 crashes recorded, and 761 near-misses recorded. Among the key findings:
  - Visual Manual Tasks Increase Risk - Talking / Listening on Cell Phones do not
    - "Dialing handheld device" had statistically significant risk ratio of 2.79 (Klauer, et al., 2006)
    - "Talking/Listening to handheld device" risk ratio of 1.3 is not statistically significant different from Just Driving (Klauer, et al., 2006)
    - Looking away from the road scene for greater than 2.0 seconds was associated with a Risk Ratio of 2.27 (Klauer, et al., 2006)
  - Looking Away from the Road Scene is the Principal Contributor to Crashes and Near Misses
    - "An important finding of this report is that almost 80 percent of all crashes and 65 percent of all near crashes involved the driver looking away from the forward roadway just prior to the onset of the conflict." (Dingus, et al., 2006)
    - "The important finding in this regard is that 93 percent of all lead-vehicle crashes (14 out of 15) involved inattention to the forward roadway as a contributing factor." (Dingus, et al., 2006)
  - Cognitive distraction is not nearly as important in crash and near-miss causation as previously believed:
    - "In fact, the data from the '100 Car' study (1) shows that it is a rare case that a crash occurs while the driver's eyes are on the forward roadway, regardless of any other "cognitive demand" that they might be engaged in." (Dingus and Klauer, 2008).

Existing research shows the benefits of voice-interface as compared to hand-held or visual-manual interface for command and data entry.

- Regardless of any effects associated with conversation, research conducted since the mid-1990s across several different research centers, indicate advantages for voice interfaces over hand-held or visual-manual interfaces for tasks such as digit-dialing of a cell phone, searching for a song or artist, seeking out a contact from an address book, or entering a destination in a navigation system.
- At the Society of Automotive Engineers World Congress, Ford published a peer-reviewed study comparing the same cell phone, music-player, and texting tasks done with both Ford's SYNC voice –interface and with the test participant's own carried-in cell phones and music players. Driver eye glance behavior, object-and-event detection, and vehicle control were generally superior with the SYNC interface. Even for tasks that took less time to complete with the hand-held devices, there were still performance advantages to SYNC.

Ford Motor Company shares the Michigan House's concerns regarding driver distraction. In addition to our continuing research and development efforts, Ford provides warnings about distraction in our Owner Guides.

- "WARNING: Driving while distracted can result in loss of vehicle control, accident and injury. Ford strongly recommends that drivers use extreme caution when using cell phones, even with voice commands. The driver's primary responsibility is the safe operation of their vehicle. Only use cell phones and other devices not essential to the driving task when it is safe to do so."

Ford Motor Company supports MI HB 4369 prohibiting the use of hand-held cell phones & MI HB 4394 prohibiting texting on hand-held devices, while driving.

- Ford Motor Company believes these bills offer the best approach to improving real-world safety.
- Ford Motor Company stands by SYNC as a hands-free alternative for control of carried-in cell phones and music players and voice-based text messaging.

Testimony before the House Transportation Committee
Thursday, April 23, 2009
House Bills – 4362 and 4369

Thank you Chairwoman Byrnes and members of the Transportation Committee for the opportunity to address you today regarding House bills 4362 and 4369.

My name is Mac Dashney I am chairperson of the Legislation Committee for the Michigan Association for Pupil Transportation (MAPT).

MAPT represents over 1,200 pupil transportation officials from 826 public, private, and contract school bus fleets throughout Michigan. These administrators oversee the effective, efficient, and safe transportation of approximately 1,000,000[1] schoolchildren to and from school every day. Every school day 13,000 school bus drivers operate 13,000 school buses covering 1,000,000 miles [*the equivalent of 40 trips around the world*] to accomplish this task.

My purpose is to present MAPT's concern over the apparent unintended consequences of these two bills – failure to exempt school bus drivers from cell phone prohibition while they carry out official duties attendant with operating a school bus.

Let me begin by saying that MAPT agrees with the purpose behind each bill – prohibiting the personal use of cellular telecommunication devices while operating a motor vehicle. In fact while polling our membership, one fleet manager indicated that a motorist talking on a cellular telephone while operating his automobile hit one of his school buses. The stop and go nature of a school bus requires that motorists pay close attention to their driving and the vehicles around them.

Polling of our membership also indicated that approximately 20-25 school bus fleets exclusively use cellular telephones as the means of communication between dispatch and operating school buses. Approximately 85 school bus fleets use cellular communications as their primary means of transmitting confidential and priority information to and from their school bus drivers.

These bills do not appropriately address communications from a school bus driver to or from a fleet dispatcher. We agree that communication dealing with emergencies, personal safety, and criminal activity are legitimate exemptions. However, pupil transportation communication includes parents informing dispatch and dispatch informing the driver that "Johnny is not going to school today." Mom calls dispatch indicating her child did not arrive home. She wants to know if her child got on the bus at school and got off the bus at the correct bus stop. A principal calls dispatch indicating that a special needs child did not take his time-based medication before getting on the bus to go home. She indicates the driver should watch the student for signs of unusually aggressive behavior and possible fainting. City police chief calls dispatch at 6:30 AM to indicate a hostage situation is in progress in a neighborhood with two bus stops. The chief indicates that the bus is not to go into the neighborhood and to inform the students that they are not to go to their bus stops. A parent calls the fleet supervisor at 2:30 AM asking if the field trip

[1] 2007-08 SE-4094 Pupil Transportation Expense Report, Michigan Department of Education, Fall 2008

bus has returned from the wrestling tournament. The bus driver has not checked in and the supervisor cannot contact the driver with the fleet's two-way radio equipment. These are but a few examples of everyday school bus fleet communication situations not addressed by these bills.

School bus operations are time and distance sensitive, people intensive, and often unpredictable. As a result, real-time communication is crucial to the effective, efficient, and safe operation of school bus fleets. Innovations in the telecommunication industry are making and will continue to make school bus operations more efficient, safer for passengers, and more responsive to parents and children. Prohibition of cell phone technology and its use to carry out a school bus fleet's official duties will severely limit its capabilities to serve schoolchildren and the community in which they live.

The nature of school bus operation requires well-trained and motivated drivers. School bus drivers undergo extensive in-house and mandated basic driver-training programs. In addition, they are required to undergo 6 hours of continuing education every two years. Both basic training and continuing education deal with communication equipment and the appropriate use of such equipment. School bus fleets have communication policies and procedures that guide dispatch and drivers concerning what, when, and how they communicate.

Chairwoman Byrnes, the Michigan Association for Pupil Transportation is asking for the following revisions to HB-4362 and HB-4369. HB-4362 SEC. 58 (1) THE DRIVER OF A SCHOOL BUS SHALL **ONLY UTILIZE CELL PHONES TO MAINTAIN STUDENT SAFETY AND RESPOND TO THE NEEDS OF SPECIAL EDUCATION STUDENTS.** School bus drivers be included in HB-4369 SECTION 602B (2)(D) CARRY OUT OFFICIAL DUTIES AS A POLICE OFFICER, LAW ENFORCEMENT OFFICIAL, MEMBER OF A PAID OR VOLUNTEER FIRE DEPARTMENT, OPERATOR OF AN EMERGENCY VEHICLE **OR SCHOOL BUS DRIVER MAINTAINING STUDENT SAFETY AND RESPONDING TO THE NEEDS OF SPECIAL EDUCATION STUDENTS.**

Thank you for giving me the opportunity to speak with the House Transportation Committee.

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Pupil Transportation Advisory Committee

Prohibition Against Personal Cell Phone Use by School Bus Drivers

A number of states have passed legislation prohibiting the use of cell phones while operating an automobile and while operating a school bus. Recognizing that personal cell phone use by school bus drivers while performing their important safety function could pose a serious safety risk, the Pupil Transportation Advisory Committee has formulated a recommended policy or administrative procedure to help reduce this safety risk.

The Pupil Transportation Advisory Committee recommends the Michigan Department of Education post on their website the following best practice;

Recognizing that personal cell phone use by a school bus driver at times the vehicle is in operation on the roadway poses a potential safety risk, and further, that personal cell phone use by the driver while the bus is in operation can be a distraction causing further potential safety risk, it is a best practice that school bus drivers not operate personal cell phones while the school bus is in operation. It is an additional best practice that personal cell phones be placed in the "off" position when in the possession of the school bus driver while the bus is in operation. Cell phones may be used in case of emergencies. Special care must be taken at all times in the use of any communications device while the school bus is in operation.

James C. Walker
JCW CONSULTING

House Transportation Committee testimony on HB4362, 4369, & 4394 on 4/23/09

I thank the Chair and the Committee for the opportunity to testify on these bills. Please note I testify today on my own behalf as JCW Consulting, and not for any other organization.

I support all three bills, but I have some substantive changes to suggest so that the safety goals intended could be better fulfilled than in their current form.

In 4362, I would change the prohibition for Cellular Phone use by school bus drivers to a prohibition for any wireless communication device. Reading, writing and texting are even more dangerous than verbal communications, and should also be prohibited. Dispatcher 2

In 4394, aimed principally at reading, writing and texting, I would eliminate the language on where the device is located. It is not safer to have a Blackberry located on the dash or on the seat than it is to have it in the driver's hand or on their lap. I would make the offense primary. Reading, writing and texting are simply not consistent with safe driving. An officer should be able to make a traffic stop when they observe the behavior, even if no safety issue is apparent at that time. We do NOT want people to drive while reading, writing or texting.

With 4369, aimed at verbal communications, it will be difficult to actually improve safety. The exception for hands-free use is simply not justified and should be dropped. It is about equally dangerous to use a hands-free phone as it is a hand-held one. Research shows the principal danger comes NOT from holding the phone, the danger comes from diverting part of the driver's attention to the call, and away from the complex task of safe driving.

If the hands-free exemption is eliminated, then I think we need another exception for legitimate businesses that need frequent verbal communications, such as taxis, delivery companies, and similar businesses where drivers have to talk to dispatchers during the day.

I have no doubt that passing a ban on cell phone use would be very difficult. Wireless communication providers would be fiercely opposed to such a ban, and would likely mount serious campaigns to defeat such a bill. However, leaving the hands-free exception makes the bill almost meaningless, because the danger comes primarily from the mental distraction.

I attach suggested wording changes to the bills and references to the research from the US, Great Britain and Australia showing the principal danger in cell phone use is the distraction. I would be happy to take any questions or to explain any of my wording suggestions.

No state has yet had the courage to pass a true ban on cell phone use that would improve driving safety for everyone. Maybe Michigan could take the lead here and pass a meaningful bill on cell phone use while driving.

Respectfully submitted,

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Suggestions for House Bills 4362, 4394 and 4369

4362 Replace "CELLULAR TELEPHONE" in Sec. 58 (1) with "ANY WIRELESS COMMUNICATION DEVICE"

[*In addition to not talking on a cellular phone or a two way radio or another communications device, we also do not want a school bus driver to be reading, writing, texting, etc. while operating their bus.*]

Consider adding a point (3) with higher penalties for second and subsequent offenses.

4394 Replace the wording of 602B. (1) with the following more inclusive text:
Sec. 602B. (1) A PERSON SHALL NOT READ, WRITE, OR SEND A TEXT MESSAGE ON ANY WIRELESS COMMUNICATION DEVICE WHILE OPERATING A MOTOR VEHICLE ON A HIGHWAY OR STREET IN THIS STATE. A WIRELESS COMMUNICATION DEVICE DOES NOT INCLUDE A GLOBAL POSITIONING OR NAVIGATION SYSTEM THAT IS AFFIXED TO THE MOTOR VEHICLE.

[*Where the device is located, in the hand or on the person's lap or on the seat beside them, or even affixed to the vehicle is not relevant to safety. Reading, writing or texting in a moving vehicle should not be permitted.*]

Consider eliminating (3) and (5) so that the offense is primary.

[If an officer sees a driver obviously reading, writing or texting, then for safety reasons they should initiate a traffic stop, even if the driver is driving acceptably at that point, to prevent future safety hazards. An officer can always issue a warning instead of a ticket, but reading, writing or texting while driving are not consistent with safety, and should not be permitted while driving. Point (4) would then become point (3).]

4369 Wording on 602B. (1) can be exactly as suggested above. Then add 602B. (1) (a)
(a) EXCEPT AS PROVIDED IN THIS SECTION, A DRIVER SHALL NOT USE ANY WIRELESS COMMUNICATION DEVICE FOR VERBAL COMMUNICATIONS WHILE OPERATING A MOTOR VEHICLE UPON A HIGHWAY OR STREET IN THIS STATE. FOR PURPOSES OF THIS SUBSECTION, "USE" MEANS TO INITIATE A CALL; ANSWER A CALL; LISTEN TO OR ENGAGE IN VERBAL COMMUNICATION THROUGH THE DEVICE; OR TO HAVE ANY VISUAL FORM OF USAGE.

In (2), replace CELLULAR TELEPHONE DEVICE with ANY WIRELESS COMMUNICATION DEVICE

[*A few years ago, the term Blackberry had no meaning in communications. Using generic wording will accommodate future technologies, and not require future amendments.*]

Add a point (E) in the exceptions list under 602B. (2) for legitimate commercial purposes
(E) SUBSECTION 602B. (1) (a) REGARDING VERBAL COMMUNICATIONS DOES NOT APPLY TO VERBAL COMMUNICATIONS REQUIRED FOR THE NORMAL BUSINESS OPERATIONS IN PROFESSIONS WHERE IMMEDIATE VERBAL COMMUNICATION IS REQUIRED, FOR EXAMPLE TAXI DRIVERS, DELIVERY DRIVERS, ON-CALL TRANSPORTATION DRIVERS, SERVICE PERSONNEL, AND SIMILAR PROFESSIONS WHERE THE ROUTING OR JOB NEEDS CAN CHANGE DURING THE DAY, AND IMMEDIATE OR ONGOING COMMUNICATIONS REGARDING THE ROUTING AND TIMING OF DUTIES ARE NEEDED TO PERFORM THE JOB.

Remove point (3) entirely, allowing no exception for hands free usage.

[The use of a hands-free device does NOT make it safe, and may be worse for safety, by encouraging more calls to be made. The principal danger from cell phone use is NOT the physical holding of the phone, it is the mental distraction taking part of the driver's concentration away from the complex task of safe driving, and transferring the attention to the call. Research in the US, Great Britain and Australia all indicate that talking on a telephone while driving can cause drivers about the same impairment as a BAC level of .08 – and this impairment is significant, whether the phone is hand-held or hands-free. Laws permitting hands-free use of phones do not add to safety because the principal danger is the lack of full attention to driving, NOT the holding of the phone.]

It would be harder to pass the bill, but consider eliminating (4) so the offense is primary.

[If it is unsafe to use a phone and drive, which I believe the research shows clearly, then police should be able to enforce that violation by itself. Again, the officer is free to issue a warning rather than a ticket.]

References for the dangers of cell phone usage while driving which support a ban.

www.nsc.org/news/cellphone_ban.aspx
In this release dated January 12, 2009, the National Safety Council recommends a full ban on cell phone use while driving, citing their belief that the risk is similar to drunk driving and increases the risk of a crash fourfold. They reviewed 50 studies before reaching a decision.

www2.Potsdam.edu/hansondj/Drivingissues/20060830105036
This is a report on a 2004 study published in 2006 at the University of Utah and titled "A Comparison of the Cell Phone Driver and the Drunk Driver"
The study compared the distraction risks from cell phone use to the impairment risks from driving with a BAC level of .08 and found them to be similar in some respects. The study said that the accident risk with cell phone use is 5.36 times higher than with undistracted drivers.
Link to the full report: www.hfes.org/Web/Pubpages/celldrunk.pdf

www.dailymail.co.uk/news/article-1157465/Hands-free-mobile-phones-dangerous-drink-driving.html
Research by the British Transportation Research Laboratory found that the reaction times and the emergency braking distance for the hands-free cell phone user were worse than those for the driver who was slightly over the BAC limit (Britain has the same .08 BAC limit as the USA). They also found that the distraction issue dulled reflexes for up to 10 minutes after the call. This study found that using a hand-held phone was measurably worse than using a hands-free one, but both were significantly worse than borderline drunk with a BAC slightly over .08.

www.bmj.com/cgi/content/abstract/331/7514/428
This is a report in the BMJ International Medical Journal covering a 2005 Australian study which concluded the use of a cell phone up to 10 minutes before a crash was associated with about a fourfold increased likelihood of crashing, regardless of whether or not the device was used hands-free. The risks for hand-held were slightly worse, but on the same general order of magnitude of increased risk. They concluded that using a hands-free phone is not any safer.

The League of Michigan Bicyclists

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April 22, 2009

Attn: House Transportation Committee

The League of Michigan Bicyclists (LMB) endorses the efforts of the National Safety Council to urge governors and legislators in all 50 states to ban cell phone use while driving. On behalf of the approximately 2 million Michigan bicyclists, LMB supports the passage of HB 4362 (ROCCA), 4369 (POLODORI) and 4394 (GONZALES).

We as a society, need to address and reinforce that driving requires full concentration on the road. Studies have shown that drivers who use cell phones are much more likely to be in an accident. When bicyclists are involved, these accidents tend to have fatal outcomes. In addition, expert studies clearly conclude that using a hand-free cell phone while driving is just as dangerous as using a hand-held phone.

While the LMB support all three bills, we encourage the removal of the "secondary action" language in both HB 4369 and 4394 that makes the enforcement of this prohibition contingent upon another traffic infraction. Let us not wait until more bicyclists and pedestrians are injured or killed by distracted drivers simply because a car does not have a taillight burned out.

Bicyclists and other vulnerable roadway users such as pedestrians, children, the elderly and those who use mobility devices deserve to be protected from inattentive drivers. No one should be injured or killed because of avoidable distractions. Bicyclists have a legal right to ride on Michigan roads and deserve these simple protections.

The LMB submits the following references to studies on driving while under the influence of a cell phone:

- Talking on *any* type of cell phone while driving quadruples the risk of an accident, and is equivalent to driving with a blood alcohol content of .10 (i.e. legally drunk). *(1997 New England Journal of Medicine examination of hospital records and 2005 Insurance Institute for Highway Safety study linking crashes to cell phone records.)*
- There is no difference in the cognitive distraction between hand-held and hands-free devices. *(Simulator studies at the U. of Utah support this finding.)*
- Cell phone use contributes to an estimated 6 percent of all crashes, which equates to 636,000 crashes, 330,000 injuries, 12,000 serious injuries and 2,600 deaths each year. *(Harvard Center of Risk Analysis)*
- 80 percent of crashes are related to driver inattention. There are certain activities that may be more dangerous than talking on a cell phone, however, cell phone use occurs more frequently and for longer durations than other, riskier behaviors. Thus, the #1 source of driver inattention is cell phones. *(Virginia Tech 100-car study for NHTSA)*

Thank you for taking up this important issue and for considering LMB's written testimony.

Sincerely,

John Lindenmayer
LMB Associate Director